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CONFIDENTIAL.

(7716.)

Memoranda and Minutes on the Question of annexing the British Protectorates in Africa.

(1.)

Memorandum by Mr. Oakes respecting the Advantages, or otherwise, of Protectorates as compared with Colonial Possessions.

[Extract from Lord Lansdowne's Minute on Mr. Sharpe's No. 188 of the 29th July, 1901:—

"I should like to have a short enumeration of the practical inconveniences resulting from 'protection,' and the advantages and disadvantages, if any, of annexation."]

AMONGST the questions which tend to show the advantages, or otherwise, experienced in practice in the Administration, respectively, of British Colonial possessions and of British Protectorates, those dealing with the following matters may be cited :—

1. Slavery.
2. Jurisdiction over foreigners.
3. Marriages of British subjects and of foreigners.
4. Extradition from Protectorates.

There may also, of course, be general considerations bearing upon the question.

1. *Slavery.*

On the 23rd January, 1885, the Lord Chancellor (Lord Selborne) reported upon certain questions in connection with the negotiations at that time in progress at Berlin which resulted in

the signature of the Berlin General Act of the 26th February, 1885; and in commenting upon the difference between "Protectorate" and "annexation," his Lordship said—

> "If we annexed any territory in Africa, the immediate consequence must be that, in that territory, slavery must at once cease to exist."

It is obvious, therefore, that in many instances in which British Protectorates have been proclaimed, it would have been impossible to have resorted to annexation without running considerable risks: either the risk of permitting slavery to continue on British territory, or that of internal complications resulting from the sudden abolition of the status.

As evidence of some of the difficulties attending the abolition of domestic slavery, the following passages may be quoted:—

Sir Claude MacDonald, writing from the Niger Coast Protectorate on the 17th December, 1895, said—

> "Domestic slavery is prevalent throughout the Protectorate, and constitutes the entire social life of the majority of the many and various tribes which inhabit the Niger Delta and Oil Rivers. . . . . Enslavement for debt, compulsory or voluntary, has been, since time immemorial, the recognized form of collecting trade debts and giving trade security with all tribes in the Protectorate. . . . . Some of the most powerful of Oil River Chiefs have commenced life as slaves. . . . . All changes must be carried out with moderation, patience, and common sense."

Mr. de Sausmarez, the Assistant Judge at Zanzibar, writing on the 23rd December, 1895, on the subject of the various difficulties likely to be encountered in the execution of the scheme for abolishing the status of slavery in the Protectorate of Zanzibar, and the means of combating them, concluded with the following remarks:—

> "It can be gathered from what I have said that I consider the difficulties in the abolition of slavery are administrative rather than radical. Were Zanzibar a Colony under British rule, and unhampered by foreign Treaties, these difficulties would be as nothing compared with the immense disadvantages which must accompany a large system of slavery. As it is, with a Mahommedan Ruler interested in the maintenance of the institution, it is otherwise."

2. *Jurisdiction over Foreigners.*

The views entertained on the subject of jurisdiction over foreigners in British Protectorates appear to have undergone some change in recent years, and it would appear from certain Reports by the Law Officers of the Crown that such jurisdiction may within certain limits be exercised by His Majesty. The original opinion was that it would be desirable, if not actually obligatory, to obtain the concurrence of a foreign Power in the exercise of jurisdiction over its subjects before attempting to exercise it ; and although this view may have since been to some extent modified, the disabilities in this connection are still sufficient to demonstrate the difficulties in the way of governing a Protectorate in comparison with those experienced in territories which have been formally annexed to His Majesty's dominions.

Sir H. James, Sir F. Herschell, August 3, 1880.

On the 3rd August, 1880, the Law Officers gave the following opinion :—

" We are of opinion that Her Majesty can, by Treaty with a native Chief, obtain jurisdiction within his territories over subjects of foreign civilized States resident within such territories, but the exercise of any such jurisdiction might be made the ground of diplomatic objection by the civilized State to whose subject it is extended, and it should not, as a rule, be exercised without the concurrence of that State given generally or in the particular case."

Sir H. James, Sir F. Herschell, December 11, 1884.

The same Law Officers reported to the Colonial Office on the 11th December, 1884, with reference to the British Protectorate of *New Guinea*, in reply to the question " Whether legal jurisdiction over persons other than British subjects could in any way be acquired within the protected area if it did not become British soil,' that they were of opinion " that legal jurisdiction over persons other than British subjects could not, under the circumstances, be acquired within the protected area in question if it did not become British soil."

In this case jurisdiction had not been acquired by Treaty or otherwise from native Chiefs or authorities.

Sir R. Webster, Sir J. Gorst, Dr. Deane, August 8, 1885.

On the 8th August, 1885, the Law Officers, reporting on the mode of administering the Niger districts, said—

"It is . . . . more in accordance with precedent that in such places as the Niger districts Her Majesty's power and jurisdiction should be exercised under the authority of Orders in Council, and by officers directly responsible to the Crown. But by neither of these methods can any jurisdiction be acquired over the subjects of any civilized Power within the territories which are not part of Her Majesty's dominions, but only under her protection."

The same Law Officers, without Dr. Deane, reported to the Colonial Office on the 10th August, 1885, that— Sir R. Webster, Sir J. Gorst, August 10, 1885.

"neither the native African Chiefs nor any of the bodies of freebooters settled in Bechuanaland could, either by Treaty or sufferance, confer upon Her Majesty jurisdiction over the subjects of any civilized Power other than Great Britain."

And they added that—

"The subjects of other civilized States who were in Stellaland could not be interfered with by the Bestuur,* or any Tribunals that might be instituted under its authority, without the consent of their own Governments."

Again, in September 1885, they reported that Treaties with native Chiefs were not sufficient of themselves to enable Her Majesty to exercise jurisdiction over the subjects of the parties to the Berlin General Act :— Sir R. Webster, Sir J. Gorst, Dr. Deane (received September 30, 1885).

"The Government of Her Majesty would not be secure in asserting jurisdiction in the Niger territories over the subjects of any civilized State which had not assented to the exercise of such jurisdiction."

On the 21st April, 1886, the Law Officers gave the following opinion :— Sir C. Russell, Sir H. Davey, April 21, 1886.

"As against the Chiefs, Her Majesty can lawfully acquire by Treaty with them the right to exercise civil and criminal jurisdiction over subjects of civilized Powers other than Great Britain within the territories of the Chiefs; but as against the subjects of other civilized Powers, we think that the jurisdiction (whatever may be its theoretical limits) should be exercised with, and cannot safely be exercised without, the assent of the Power concerned, given generally or in the particular case."

Similar opinions were given or concurred in in subsequent years down to the year 1891, when a

* An elected body performing certain functions of government

See Law Officers' Reports, 1891, Confidential, No. 6207, p. 11.

Memorandum was prepared at the Colonial Office, in which it was maintained that certain Articles of the General Act of the Conference of Berlin conceded, at any rate by implication, the right of exercising jurisdiction in Protectorates over the subjects of the Powers which were parties to that Act, and that this principle was confirmed by the General Act of the Brussels Conference of 1890.

Sir R. Webster, Sir E. Clarke. April 17, 1891 (to Colonial Office), and April 30, 1891.

The Law Officers concurred generally in the propositions laid down in this Memorandum, and held that in the regions of South Africa (which were then in question) where British Protectorates had been established, the provisions of the General Acts of Berlin and of Brussels were sufficient to justify the exercise of jurisdiction over the subjects of those Powers which were parties to those General Acts.

On the 26th January, 1895, the Law Officers were consulted by the Colonial Office with reference to jurisdiction in the protected territories adjacent to the Gold Coast Colony; and on the 14th February they reported that, although Great Britain had formerly entertained views contrary to the assumption of jurisdiction over foreigners, within the last ten years she had been assimilating her practice to that of Germany and France, who entertained the view "that the existence of a Protectorate in an uncivilized country imports the right to assume whatever jurisdiction over all persons may be required for its effectual exercise."

Sir R. T. Reid, Sir Frank Lockwood, February 14, 1895.

The Law Officers, therefore, approved an instruction to the Governor of the Gold Coast, in the course of which he was informed that, as regarded the subjects of civilized States, there could be no question as to the jurisdiction of the British Court (in the protected territory), for no other Court was capable of dealing with them.

It will thus be seen that opinions have been somewhat divided upon this subject at different times, and that the later view, though expressed with reference to certain localities, is not universally acted upon, as, for instance, in the case of Zanzibar. In the case of New Guinea, the difficulty was overcome by converting the Protectorate into a British possession.

As showing the desirability of acquiring jurisdiction over foreigners (at Zanzibar), Mr. Rennell Rodd in 1893 reported a case in which a British Indian gained a suit in the German Consular Court at Zanzibar against a German firm. The

No. 42, February 1, 1893.

latter appealed, and the appeal had to be tried at *Leipsic*, the Court there having the power to require the attendance of witnesses, &c., from Zanzibar.

Lord Rosebery's comment on this statement was, "This is truly remarkable."

In 1892 the *German* Government recognized British jurisdiction in East Africa as from the 1st February of that year, excepting in the Islands of Zanzibar and Pemba, for which, they stated, legislative sanction would be necessary, Germany having previously possessed jurisdiction there by Treaty.

Sir E. Malet, No. 3, Africa, January 6; No. 4, Africa, January 9, 1892.

Her Majesty's Government expressed a hope that steps would at once be taken to obtain that sanction.

To Sir E. Malet, No. 11, Africa, January 25, 1892.

Jurisdiction appears, however, still to be exercised by the foreign Treaty Powers in the Island of Zanzibar, although by Article VII of the Convention signed at London on the 14th November, 1899, Germany renounced her rights of extra-territoriality in Zanzibar on the understanding that this renunciation should not become effective until the rights of extra-territoriality enjoyed there by other nations should be abolished.

With regard to other Protectorates in Africa coming under the Africa Order in Council, 1889, an Order in Council was issued on the 28th June, 1892, whereby British jurisdiction was assumed over foreigners who were subjects of the Powers which were signatories of the Act of Berlin of 1885, and of any other Power *which consented to such jurisdiction.*

"Africa Order in Council, 1892."

In connection with the question of legal jurisdiction in Protectorates, the case dealt with in the judgment pronounced on the 16th July, 1901, by Mr. Nunan, may be mentioned.

Mr. Nunan, the Chief Judicial Officer for the Central Africa Protectorate, in forwarding his judgment in the action of Cox *v.* The African Lakes Corporation to Mr. Commissioner Sharpe, pointed out the number of legal questions raised therein as to the precise position of Great Britain in relation to that Protectorate, and stated that the legal administration of a British Protectorate was full of pitfalls.

Commissioner Sharpe, No. 188, July 29, 1901.

The question of ownership of land by native Chief in Protectorates seems to have constituted one of these pitfalls; the theory of the exercise of delegated powers by the protecting Power another, and the exact position of the native

population towards the Protecting Power, a third.

3. *Marriages in African Protectorates.*

The marriage of *British subjects* in a British Protectorate can be, to a great extent, and has been, provided for by the application of the Foreign Marriage Act of 1892. This Act does not, however, meet all the necessities of the case, and, as regards the marriages of *foreigners* amongst themselves, it is inoperative.

See Law Officers' Report, August 8, 1900.

Marriages, generally, of foreigners as well as of British subjects, can also be provided for in Protectorates where Indian laws may be applied, by the introduction of the Indian Christian Marriage Act; but it has not so far, I believe, been thought desirable to introduce it, for reasons connected chiefly with the question of divorce.

In a British possession a marriage law may be applied by Proclamation or otherwise, according to circumstances, and the necessary facilities afforded for the marriage of all inhabitants or residents, whatever their nationality; but in a Protectorate this facility, except as above pointed out, is wanting.

Many inquiries and complaints have from time to time been made in connection with this subject.

July 28, 1897.

In 1897 the Church Missionary Society inquired whether the marriages of "Europeans" could then be legally performed in the Uganda Protectorate.

At that time there were no marriage officers in Uganda appointed under the Foreign Marriage Act. Since that time three such officers have been appointed, so that in three places in the Protectorate a marriage may now be solemnized between parties of whom one, at least, is a British subject. As regards persons other than British subjects, the matter remains as before.

November 3, 1897.

In 1897 Sir A. Hardinge reported that a marriage had taken place at Machakos, in East Africa, between two British subjects. It happened that a clergyman of the Church of England passed through that place, and advantage was therefore taken of his presence to procure the solemnization of the marriage, which could not otherwise have been effected. It is held that marriages of British subjects solemnized in heathen countries by a Priest or Deacon in Holy Orders are valid by the law of England, and thus this marriage could be solemnized in East Africa notwithstanding the absence of the ordinary

See Dr. Tristam's Report to the Archbishop of Canterbury, February 9, 1877. Law Officers' Reports, 1877, p. 42.

facilities in that connection. But even this rule appears to be open to certain doubts and difficulties which might render absolute reliance upon it somewhat hazardous. For instance, Sir H. Jenkyns reported on the 31st March, 1887, that as the validity of a marriage of this description depended upon the doctrine that an Englishman carries with him the English common law with respect to marriage, that doctrine could not apply where the husband was not an Englishman, and perhaps also where the wife was not an Englishwoman. Also, he added, where the husband was *domiciled* in some part of the Queen's dominions in which the common law is not the English common law, further doubt must arise as to the validity of such a marriage.

Law Officers' Reports, 1887, p. 31.

I believe also that the opinion is entertained that such a marriage would not be legal if any other means of performing a valid marriage in contemplation of English law were available.

It can scarcely be doubted, in view of all the circumstances of the case, that a British Protectorate labours under disadvantages, in the matter of marriage, as compared with a territory annexed to the British dominions.

4. *Extradition from British Protectorates.*

This question, which has arisen in a practical shape on more than one occasion, also leads to the conclusion that a British Protectorate has disadvantages attaching to it which do not arise in the case of territories forming part of the dominions of the Crown.

In 1888 and the following years a correspondence took place with the German Government having for its object the establishment of a system of extradition between the German and the British Protectorates in Africa.

The proposal for an arrangement emanated from the German Government, and the question was referred to the Law Officers, who reported as follows :—

Sir R. Webster, Sir E. Clarke. March 3, 1888.

"In our opinion it will not be advisable to endeavour to provide by legislation or agreement for the mutual surrender of fugitive criminals by the English and German Protectorates. This could not be done without admitting that the Protectorate conferred the rights and duties of territorial sovereignty, and would therefore be in conflict with the principle hitherto maintained by Her Majesty's Government."

See also Report by same Law Officers of June 15, 1892.

They suggested, as a preferable course, that facilities should be given to German officers to arrest fugitive German subjects who were alleged to have committed offences within German jurisdiction.

Home Office. May 15, 1888.

The Home Office were then consulted, and they replied unfavourably to the suggested arrangement, saying that the question was surrounded by difficulties which were well-nigh insuperable.

To Count Hatzfeldt, December 19, 1900.

The German Government having inquired, after a considerable lapse of time, how the matter stood, the German Ambassador was informed in December 1900 that it was still under consideration, and that the subject presented considerable difficulties.

To Lord Chancellor, January 23, 1891.

In the following month the question was, by direction of Lord Salisbury, referred to the Lord Chancellor as to whether criminals from German spheres of influence taking refuge in British spheres could be expelled from the latter in such a way as to place them in the hands of the German authorities.

No answer was, however, returned by his Lordship down to the date of his resignation of his office in 1892; but in the meantime a proposal was made for an arrangement of a partial character which would admit of the extradition from German *Protectorates* to British *possessions*, and from British *possessions* to German *Protectorates*, as this was found, on inquiry, to be practicable without having recourse to legislation in order to amend the Extradition and the Foreign Jurisdiction Acts, as would have been the case if extradition had to be made applicable to British Protectorates.

After considerable correspondence an Extradition Treaty in this modified form was concluded with Germany on the 5th May, 1894; but the matter, as regards *British Protectorates*, has remained in its original condition, no suitable remedy for the existing difficulties having been discovered.

Sir C. Russell, Sir J. Rigby, November 21, 1893.

The Law Officers reported in November 1893 that "any effective Extradition Arrangement would require the concurrence of all the Powers whose subjects were to be affected by it."

Sir R. Finlay, Sir E. Carson, June 29, 1901.

The most recent report upon this question appears to be that of the present Law Officers, dated the 29th June, 1901, in which they said that in that opinion "in the case of Protectorates where His Majesty claims general jurisdiction, and not merely over British subjects, and by

virtue of the prerogative assumes or delegates legislative authority, it would be competent for the legislative authority of the Protectorate to make laws similar to the Extradition Acts, so as to give effect to Agreements with other countries for the mutual surrender of fugitive criminals."

With regard to general considerations which have been, or might become, factors in the question of the annexation of British Protectorates, one is mentioned by Mr. Davidson in his Minute on the docket of Commissioner Sharpe's despatch No. 188 of the 29th July, 1901, where he says :—

"The actual assumption of a Protectorate over a vast expanse of territory is a milder process, and one at the moment much less likely to excite jealousy and protest from foreign nations than annexation of the territories would be. Then, again, it is easier to withdraw a Protectorate already declared over an unsettled region than it would be to abandon sovereignty over that region if it had been actually annexed."

As to the latter observation, the Law Officers, in 1886, reporting on the subject of the cession of Ambas Bay to Germany, said :— Sir R Webster, Sir E. Clarke, December 13, 1886.

"It is not necessary to enter into the general question whether the Crown can cede any part of British territory without the authority of Parliament, but we entertain very grave doubt whether the action of the late Government in concluding the Arrangement in question [*i.e.*, for the cession of Ambas Bay] with Germany in 1885, without making that Arrangement subject to the approval of Parliament, can be justified."

With reference to exciting the jealousy of foreign Powers, it may be stated that when the Colonial Office, in 1896, urged the annexation of Amatongaland, as being highly desirable in consequence of difficulties in the way of its administration, a letter was addressed to that Office by the Foreign Office in which the following passage occurs :—

"As regards the question of converting the Protectorate of Amatongaland into a Crown possession, Lord Salisbury considers that the matter is one which requires careful consideration. In the excited state of feeling in the Transvaal and neighbourhood,* as well as in Europe, with reference to African affairs, further annexation of territory by this country at the present

To Colonial Office, February 17, 1896.

* The "Jameson Raid" had recently occurred.

moment might give rise to hostile criticism, which it is desirable, if possible, to avoid," &c.

Colonial Office,
April 6, 1897.

The matter was accordingly deferred; but in April of the following year the Colonial Office again recurred to the subject, giving reasons connected with the administration of a country of so small an area by separate machinery in favour of annexation, and the proposed annexation was thereupon carried out.

Besides the instances which have been pointed out, there may be other considerations weighing for or against the annexation of protected territories, known only to those concerned in the practical working out of problems connected with the administration of the territories on the spot.

So far as my researches have extended, I have discovered no further cases of inconvenience recorded in the correspondence upon any points other than those touched upon in this Memorandum.

(Signed) A. H. OAKES.

Foreign Office,
March 4, 1902.

(2.)

Memorandum by Sir C. Hill on Question of annexing our Protectorates.

In a Minute on Mr. Sharpe's No. 188 of the 29th July, 1901, Lord Lansdowne, wrote:—

"I am quite ready to consider the important question raised in the above Minutes, but we shall have to discuss it in its application to other Protectorates outside British Central Africa. . . . . I should like to have a short enumeration of the practical inconveniences resulting from 'protection,' and the advantages and disadvantages, if any, of annexation."

Shortly put, the practical inconvenience arising from protection springs from the following considerations:—

1. Application of inconvenient Treaties.
2. Insufficient jurisdiction over foreigners.
3. Extradition questions.
4. Marriage questions.
5. Non-application of Army Act.

The advantages of annexation are the removal of these inconveniences.

The disadvantages are the effect it would have on foreign Powers at the present juncture, and the fact that annexation entails, *ipso facto*, the immediate abolition of slavery.

An essay might be written on the subject, but for practical purposes it may suffice to consider the different sorts of Protectorate and their different wants: their "moral virtues and contrary vices."

In the first class of Protectorate stands Zanzibar. There we have an Arab Sultan whose independence is guaranteed by Great Britain, France, and Germany,* and who governs through an old-established Arab system applied partly through Europeans, partly through natives. He is under British protection *quâ* his relations to foreign Powers, but we do not directly administer his island territories; we do not settle his budget nor appoint his officers. Under our advice he has abolished the legal status of slavery in these islands. On the other hand he has made over to us the direct administration of his mainland dominions, but his Treaties with us and foreign Powers still run there and our action is hampered by their provisions.

At the present moment, I do not think we need discuss the question of annexing the island portion of the Zanzibar dominions. Abolition of slavery, direct financial responsibilities, and discussions with France and Germany are three obstacles which we need not now attempt to negotiate.

In the Sultan's mainland dominions, a narrow strip 10 miles deep with a few northern towns, the inconvenience of annexation as against protection arises chiefly from the question of domestic slavery, which cannot be permitted to exist on British soil. Annexation means abolition—abolition means compensation and possible social disturbance. Though I think the Arab power is

* With regard to the statement that in Zanzibar "we have an Arab Sultan whose independence is guaranteed by Great Britain, France, and Germany," I have not been able to find any Treaty or engagement which would appear to exactly justify these words, but in the Notes of the 29th October and 1st November, 1886, exchanged between the British and German Governments, the latter engage to adhere to the Declaration signed by Great Britain and France on the 10th March, 1862, with regard to the recognition of the independence of Zanzibar. This must be what is referred to in the above quoted passage.—R. W. B., *May* 23, 1906.

too much broken for a serious rising to be possible, yet immediate abolition might make even the best Arabs mere sullen spectators of our efforts at development instead of the more or less active supporters which they now are.

Taking the most recent estimates of 15,000 slaves, a sum of about 150,000*l.* should suffice to provide compensation. It might, in practice, be found to be less.

On the other hand, the abrogation of the Treaties would be of immense advantage. The Treaties were made when European Powers wanted to safeguard themselves as much as possible against Mahommedan laws and practices. Consequently, they tied the Sultan down to a minimum of taxation, allowing him no taxes whatever on foreigners, except 5 per cent. on imports, and retained jurisdiction over nationals.

The Sultan is ready to hand over his mainland dominions; our acceptance could hardly be held by our co-guarantors to be a violation of our pledge to respect his independence, for they have acquiesced in our Protectorate. Yet it by no means follows that they would agree to annexation without protest or an attempt to make us pay for their concurrence in some inconvenient form.

We must be prepared for that, if we annex.

Moreover, annexation of the strip would lead to annexation of the rest of the Protectorate lying behind it. And here come in those inconveniences which are common to all the Protectorates: they are the vices against which no virtues are to be set:—

(*a.*) Incomplete jurisdiction over foreigners.

(*b.*) Difficulties of the marriage law, as applied to marriages between British subjects and foreigners or between foreigners.

(*c.*) Non-application of the Army Act.

(*d.*) Non-application of Extradition Treaties.

With regard to (*a*) and (*b*), it is probable that the inconveniences will disappear without annexation. Jurisdiction over foreigners is really a matter for our own law. If we read it in to our legislation, foreigners, in the absence of contrary Treaty stipulations, must accept the position.

(*b.*) In consequence of a recent opinion of the Law Officers, an attempt, which it is hoped may prove successful, is now being made to overcome the marriage difficulties, and Mr. Gray is drafting

Ordinances which will remove the obstacles to marriages.

Annexation, therefore, is probably not called for *quâ* marriage purposes.

(*c.*) The non-application of the Army Act is rather more awkward; the Colonial Office have had before them the question as to whether troops in Protectorates can be held to be either in the King's dominions or on foreign service. The Law Officers seem inclined to think that neither position can be upheld. Protectorates are certainly not part of the King's dominions.

Annexation would remove all doubts, and place our forces on a sound footing; otherwise an amendment of the Army Act is required. The Colonial Office are considering this.

(*d.*) Extradition Treaties.

These do not apply to Protectorates. Consequently, whenever the surrender of a criminal is required from British or German East Africa, it has to be the subject of local arrangement in circumstances of questionable legality. An alteration would require Parliamentary action on our part. Annexation would settle this.

In the Uganda Protectorate we meet the same set of inconveniences as in the East African Hinterland, plus our Treaty, which recognizes a Ruler of the Kingdom of Uganda.

In neither of these Protectorates, once the mainland strip is left behind, is slavery recognized by us; therefore we need not be frightened by that bogey. Where slavery does exist in some form or another, tact, and a little judicious closing of the official eye, will enable us to get rid of it without fuss or disturbance.

No foreign nation has the right of interference in the Uganda Protectorate, and annexation is only dependent on the terms of the aforesaid Treaty as regards the Kingdom of Uganda, and our own convenience as regards the rest of the Protectorate.*

In British Central Africa also our hands are free from foreign trammels. The general inconveniences of Protectorate exist here as elsewhere, but it appears to me that annexation is not called for. I think it inevitable that the Protectorate will fall under the Colonial Office, and I believe they will be prepared to take it over at the end of this year, when the Crown Agents will move

* See however, the Agreements with Toru and Ankole.

to other quarters and leave more space to the staff of the Colonial Office proper. If this is so, the question of annexation can be left to the Colonial Office. It would in any case seem anomalous that the Pretectorate should become a portion of His Majesty's dominions whilst Northern Rhodesia is not so considered.

With this Memorandum I send in a paper by the Librarian showing at greater length the details of some of the points on which I have touched.

On the whole, although I should greatly like to see the annexation of the Sultan's mainland strip, I am inclined to advise leaving things in the Protectorates as they are. If inconveniences become intolerable or circumstances more favourable, we can cut the Gordian knot hereafter.

C. Ll. H.

Foreign Office,
April 7, 1902.

(3.)

Minute by Lord Cranborne.

The impression left on my mind by these papers is that the legal difficulties attending the status of Protectorates are in process of being explained away.

It seems the gradual broadening of view in the Law Officers' Department neither has produced nor is likely to produce any serious objection, and we shall soon reach the stage when an Order in Council—authorized, if necessary, by a short enabling Act—will make it possible to sweep all the cobwebs away without any resistance from foreign Powers.

One difficulty is, perhaps, more substantial, namely, the limit of customs duties. We are, indeed, practically able to raise them to 10 per cent., but no doubt nothing but annexation would entirely free our action in this respect.

As regards slavery, I do not think that any act of ours ought to absolve us from the pledge to the Arabs. But we cannot annex without abolition, and if this pledge is held to exclude abolition, even when accompanied by compensation, then I think annexation of the mainland strip at present

is impossible. If not, then compensation would, of course, not present an insurmountable obstacle.

It appears, therefore, from Sir C. Hill's Memorandum and these considerations, that there are reasons on both sides. But at the present moment I have no doubt it would be inopportune, and that until our hands are free elsewhere—and, perhaps, for a short breathing-space after—it would be well to avoid this possibility of friction with other Powers and of reprisals which they might claim to make.

As to the question whether British Central Africa should be transferred to the Colonial Office, I have mentioned the point in another Minute.

C.

April 10, 1902.

(4.)

Minute by the Marquess of Lansdowne.

I am rather dismayed at finding that the wish which I expressed in my Minute on Mr. Sharpe's paper has given Mr. Oakes and Sir C. Hill the trouble of preparing these lengthy Memoranda, for which I am extremely obliged. They are valuable contributions to the literature of the subject, and will be of use hereafter whenever the subject comes up, as it must, for further consideration.

The conclusion at which Lord Cranborne has arrived is irresistible. For the present we must sit still. The reasons urged by Lord Salisbury for doing so in 1896* are stronger now than they were then, and we may find comfort in the reflection that the difficulties in the way of annexation are apparently tending to diminish, and that the existing condition of affairs, though presenting some inconveniences, can scarcely be described as intolerable.

L.

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* See letter to Colonial Office of February 17, 1896, quoted on p. 10.

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MEMORANDA and Minutes on the Question of annexing the British Protectorates in Africa.

Foreign Office,
March–April, 1902.

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